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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,934	10/19/2000	Henry Edward Pfeiffer	964-4	5671

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EXAMINER

SAFAVI, MICHAEL

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 12/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/691,934

Applicant(s)

PFEIFFER, HENRY EDWARD

Examiner

M. Safavi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-16, 39 and 41-46 is/are pending in the application.
- 4a) Of the above claim(s) 43-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-16, 39, 41, and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3, line 5, to which pair of longitudinal edges does "the pair of longitudinal edges" refer?

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

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4. Claims 3-5, 8-16, 39, 41, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Beliveau '462. (If claim 3 is interpreted as defining only a pair of longitudinal edges with engaging means). Beliveau '462 shows, Figs. 1 and 3, pair of opposing foam panels 14a, 14b having a plurality of ties 16 extending therebetween with opposing flange members 20a, 20b embedded or encapsulated within respective opposing foam panels. A web 32 formed of spaced, parallel bridge members 44 which possess outwardly extending rebar-retaining seats positioned therealong separates the opposing pair of flange members. Engaging means in the form of alternating and substantially uniform or substantially similar teeth and sockets 18, 19 is formed along the upper and lower edges, (a pair of longitudinal edges). Two rows of teeth can be seen with each tooth of a row being spaced apart from adjacent teeth of the same row by a socket with adjacent rows offset from each other by a distance of one side of one tooth. A longitudinal axis of the tie flange members 20a, 20b can be seen as substantially equal in length to the transverse axis of the foam panels 14a, 14b. Pair of parallel bridge members extending transverse to the flange members is as along 44. Rebar retaining seat can be seen formed along the bridge members. Blocks 10, or panels 14a, 14b, can be connected to a perimeter edge of a substantially similar block or panel along at least one edge, inverted or otherwise, (if the Beliveau panel top edge ends with configuration 19 then panel can be inverted with edges flush; if the Beliveau panel top edge ends with configuration 18 then panel can be inverted as by shifting the equivalent of one protrusion 18 or cavity 19).

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-6, 8-16, 39, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beliveau '462 in view of Horobin '382.

Beliveau '462 shows, Figs. 1 and 3, pair of opposing foam panels 14a, 14b having a plurality of ties 16 extending therebetween with opposing flange members 20a, 20b embedded or encapsulated within respective opposing foam panels. A web 32 formed of spaced, parallel bridge members 44 which possess outwardly extending rebar-retaining seats positioned therealong separates the opposing pair of flange members. Engaging means in the form of alternating and substantially uniform or substantially similar teeth and sockets 18, 19 is formed along the upper and lower edges. Two rows of teeth can be seen with each tooth of a row being spaced apart from adjacent teeth of the same row by a socket with adjacent rows offset from each other by a distance of one side of one tooth. A longitudinal axis of the tie flange members 20a, 20b can be seen as substantially equal in length to the transverse axis of the foam panels 14a, 14b. Pair of parallel bridge members extending transverse to the flange members is as along 44. Rebar retaining seat can be seen formed along the bridge members. Blocks 10, or

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panels 14a, 14b, can be connected to a perimeter edge of a substantially similar block or panel along at least one edge, inverted or otherwise.

Horobin '382 teaches formation of engaging means in the form of alternating teeth and sockets, as at 20, 22, formed along the side edges of respective panel members. To have provided the Beliveau panel members with engaging means in the form of alternating teeth and sockets formed along the side edges, thus providing a more secure assembly of panel members in an edge to edge relationship, would have constituted an obvious expedient to one of ordinary skill in the art at the time the invention was made as taught by Horobin '382. If the Beliveau panel top edge ends with configuration 19 then panel can be inverted with edges flush. If the Beliveau panel top edge ends with configuration 18 then panel can be inverted as by shifting the equivalent of one protrusion 18 or cavity 19; The resulting side edges of Beliveau as modified by Horobin '382 can be inverted as well.

6. Claims 3-16, 39, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beliveau '462 in view of Mensen '459.

Beliveau '462 shows, Figs. 1 and 3, pair of opposing foam panels 14a, 14b having a plurality of ties 16 extending therebetween with opposing flange members 20a, 20b embedded or encapsulated within respective opposing foam panels. A web 32 formed of spaced, parallel bridge members 44 which possess outwardly extending rebar-retaining seats positioned therealong separates the opposing pair of flange members. Engaging means in the form of

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alternating and substantially uniform or substantially similar teeth and sockets 18, 19 is formed along the upper and lower edges. Two rows of teeth can be seen with each tooth of a row being spaced apart from adjacent teeth of the same row by a socket with adjacent rows offset from each other by a distance of one side of one tooth. A longitudinal axis of the tie flange members 20a, 20b can be seen as substantially equal in length to the transverse axis of the foam panels 14a, 14b. Pair of parallel bridge members extending transverse to the flange members is as along 44. Rebar retaining seat can be seen formed along the bridge members. Blocks 10, or panels 14a, 14b, can be connected to a perimeter edge of a substantially similar block or panel along at least one edge, inverted or otherwise.

Mensen '459 teaches formation of engaging means in the form of alternating teeth and sockets, as at 38, formed along the side edges of respective panel members. Mensen '459 also teaches formation of a corner block concrete form including opposing foam panels having rectangular segments in angular relation to each other as shown by Fig. 3. To have provided the Beliveau panel members with engaging means in the form of alternating teeth and sockets formed along the side edges, thus providing a more secure assembly of panel members in an edge to edge relationship, as well as provided the Beliveau form assembly with any number of corner block concrete forms, thus allowing easy formation of a corner assembly, would have constituted an obvious expedient to one of ordinary skill in the art at the time the invention was made as taught by Mensen '459. If the Beliveau panel top edge ends with configuration 19 then panel can be inverted with edges flush. If the Beliveau panel top edge ends with configuration 18 then

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panel can be inverted as by shifting the equivalent of one protrusion 18 or cavity 19; The resulting side edges of Beliveau as modified by Mensen '459 can be inverted as well.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beliveau '462 in view of Cymbala et al. '714. (If claim 3 is interpreted as defining only a pair of longitudinal edges with engaging means).

Cymbala '714 teaches formation of a corner block concrete form including opposing foam panels having rectangular segments in angular relation to each other as shown by Fig. 4. To have provided the Beliveau form assembly with any number of corner block concrete forms, thus allowing easy formation of a corner assembly, would have constituted an obvious expedient to one of ordinary skill in the art at the time the invention was made as taught by Cymbala et al. '714.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Beliveau '462 in view of Horobin '382 as applied to claims 3-6, 8-16, 39, 41, and 42 above, and further in view of Cymbala et al. '714.

Cymbala '714 teaches formation of a corner block concrete form including opposing foam panels having rectangular segments in angular relation to each other as shown by Fig. 4. To have provided the Beliveau form assembly with any number of corner block concrete forms, thus allowing easy formation of a corner assembly, would have constituted an obvious expedient to

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one of ordinary skill in the art at the time the invention was made as taught by Cymbala et al. '714.

Response to Arguments

9. Applicant's arguments filed October 02, 2003 have been fully considered but they are not persuasive. As set forth in the above rejections Beliveau, alone or as modified, can be "stacked in a staggered pattern regardless of orientation". Though, the language of the rejected claims does not appear to clearly set forth such an arrangement and in fact is directed to a block per se. Rejections involving Beliveau '462 are being presented under 35 U.S.C. 102 as well as under 35 U.S.C. 103 with the particular metes and bounds of the claim language not being clearly ascertained. Otherwise, the language of the instantly rejected claims fails to present features differing from those of Beliveau, alone or as modified.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Safavi whose telephone number is (703) 308-2168.



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**

M. Safavi
December 28, 2003